

5 DESIGNATED PORT AREA MASTER PLAN – REGULATORY ISSUES IN THE DPA: PROVIDING FOR GLOUCESTER’S MARITIME INDUSTRY

5-1 INTRODUCTION

This section of the Gloucester Municipal Harbor Plan is prepared as the Master Plan for the Designated Port Area (DPA) of Gloucester Harbor (Figure 2-2).

In general, a DPA Master Plan must preserve and enhance the capacity of the DPA to accommodate water-dependent industry and prevent substantial displacement of these activities by other nonwater-dependent uses. The Gloucester Harbor Plan/DPA Master Plan does this by:

- € preserving the shorefront of each property for marine industry,
- € defining the types and intensity of principal and supporting uses and the conditions under which they can be approved, and
- € recommending revisions to both the city and state regulations to codify the plan’s recommendations and to improve consistency and predictability in the regulatory processes.

Both the City and state are committed to maintaining and strengthening Gloucester Harbor as a working waterfront for commercial fishing and other water-dependent industrial and associated uses.

- € Over the past decade, the state has invested millions of dollars in improving harbor infrastructure and facilities (see Section 2-3) in support of maritime industries.
- € The City’s regulations for the Marine Industrial zoning district (which covers the Inner Harbor waterfront) and the state’s Chapter 91 regulations for DPAs give highest priority to water-dependent industry on waterfront properties.
- € The 2001 Community Development Plan for the City of Gloucester includes the objective of “Strengthening Gloucester’s traditional port activities within the Inner Harbor by working with private landowners to upgrade facilities, promote diversification, and facilitate investment.”

While City and state regulations are effective in protecting existing uses, accommodating new desired uses, and excluding unwanted competing uses, they cannot create demand. The viability of many businesses on the Gloucester waterfront is tied to the health of the commercial fisheries. Groundfishing, the traditional foundation of Gloucester’s marine economy, has contracted over the past two decades as a result of diminishing stocks and the restrictions on allowable days-at-sea for fishing vessels. Management measures now in place are designed to restore groundfish stocks to levels that will support a sustainable fishery, but any recovery is still years away.

Gloucester is the state’s leading port for lobster landings and lobster licensees, but these landings have been trending down since 2000. Landing of pelagic species has increased dramatically in recent years, though this fishery involves only a limited number of properties on a seasonal basis.

Some waterfront property/business owners feel caught between the currently limited economic potential from the commercial fisheries and the regulatory restrictions on land use. With a diminished revenue stream, property owners do not have and are unable (or unwilling) to

access capital to invest in maintaining and improving their waterfront infrastructure which is essential for the future of the working port.

In response, the Gloucester Harbor Plan/DPA Master Plan proposes the following strategies:

- (1) diversify waterfront uses by providing greater flexibility in the types and amount of commercial use allowed in targeted areas of the waterfront, and
- (2) enhance and focus the administrative resources of the City to support and strengthen the viability of the Port of Gloucester.

The objective of the former is to increase the economic return from waterfront properties in support of long term maintenance and expansion of water-dependent industrial activities on the Harbor. In specified areas of the waterfront, the Plan recommends increasing the percentage of a waterfront parcel that can be developed with Supporting Commercial and Industrial Uses. The purpose is to enable property owners to generate additional revenue that will serve to sustain traditional water-dependent marine industrial operations.

The latter strategy involves a public/private partnership to broadly promote the assets of and attract investment to Gloucester Harbor, assist property owners with funding opportunities and regulatory processes, encourage redevelopment of underutilized properties, and continue to improve public infrastructure in support of private industry and the community.

5-2 LAND AND WATER USE OF GLOUCESTER HARBOR

The Gloucester Harbor Plan and DPA Master Plan support the following on property in the DPA:

1. water-dependent-industrial and accessory uses on filled tidelands, pile-supported structures, or upland.
2. Buildings and structures on previously filled tidelands or upland to accommodate:
 - a) supporting Commercial uses³, as defined and limited below;
 - b) supporting general industrial uses⁴ limited only by the use and dimensional standards of the Zoning Ordinance;
 - c) temporary uses⁵ of vacant space or facilities, including warehousing, parking, and other industrial and transportation uses not requiring significant structural alteration of such space or facilities.

³ Supporting commercial uses is a category of land use defined in 301 CMR 9.02 as a commercial use in a Designated Port Area that provides water-dependent industrial use in the DPA with direct economic or operational support. Supporting commercial uses allowable in the MI-1, MI-2, or MI-3 zoning districts are contained in Table 2.3 Use Regulations Schedule of the City of Gloucester Zoning Ordinance.

⁴ Supporting general industrial uses are a category of use defined in 301 CMR 9.02 as an industrial use in a Designated Port Area that provides water-dependent industrial use in the DPA with direct economic or operational support. Supporting general industrial uses allowable in the MI-1, MI-2, or MI-3 zoning districts are contained in Table 2.3 Use Regulations Schedule of the City of Gloucester Zoning Ordinance.

⁵ Temporary uses means warehousing, trucking, parking, and other industrial and transportation uses which occupy vacant space or facilities in a Designated Port Area, for a maximum term of ten years and without significant structural alteration of such space or facilities.

3. Limited space and structures to accommodate public pedestrian access consistent with a public access plan for Gloucester Harbor.

This DPA Master Plan specifies the principal water-dependent industrial, supporting general industrial and commercial, and accessory uses to be allowable in the MI-1, MI-2 and MI-3 districts. These uses are shown in Table 5.1 which is a recreation of the Use Regulations Schedule (Table 2.3) of the Gloucester Zoning Ordinance. The table depicts proposed additions and changes to the existing Use Regulations Schedule that reflects this Plan's recommendations for principal, supporting and accessory uses. This Plan further recommends changes and additions to the Zoning Ordinance to incorporate standards and requirements for the development of these uses.

Water-dependent Industrial Use

Water-dependent industrial is the priority land use for Gloucester Harbor properties that fall within the area covered by both the Gloucester DPA and the MI zoning district(s). The water-dependent industrial uses in Table 5.1 are prioritized by designating them as permitted uses (as opposed to special permit uses). As priority uses, there are relatively few restrictions on the location and intensity of development.

Water-dependent industrial use of the Harbor has been the long-term policy of the City as reflected in the 1999 Harbor Plan, the 2001 Community Development Plan, and the provisions of the Gloucester Zoning Ordinance for the Marine Industrial zoning district. Though the existing Use Regulation Schedule for the MI district includes a broad range of other allowable uses, residential development and recreational boating uses are prohibited (as they are by the state Chapter 91 regulations for DPAs). This is important as these are the types of uses most likely to be incompatible with, out-compete, and displace marine industrial and related development. These municipal policies and regulations are generally consistent with the state's policies for Designated Port Areas.

Supporting DPA Uses

Supporting DPA Use is a concept employed by the State's waterways regulations (Chapter 91) and means an industrial or commercial use that provides direct economic or operational support to water-dependent industry in the DPA. The state's waterways regulations allow these uses in a DPA as long as the type, location, scale, duration, operation, and other aspects of the supporting use is compatible with activities characteristic of the working waterfront.

Any industrial or commercial use, other than those posing a severe conflict with port operations, is eligible for licensing as a Supporting DPA use. The Chapter 91 regulations suggest small businesses, retail and service facilities; shops of tradespersons, eating and drinking establishments with limited seating, and small offices as examples of Supporting Commercial Uses compatible with the DPA. Administrative offices that are part of an industrial enterprise are categorized as Accessory Uses (defined below). The Chapter 91 regulations categorically exclude from eligibility as a Supporting DPA use hotels/motels, nursing homes, hospitals, recreational boating facilities, entertainment facilities, and new buildings devoted predominantly to office use.

This DPA Master Plan specifies the commercial and industrial uses to be eligible for licensing by DEP as supporting DPA Uses⁶. These are the general industrial uses and commercial uses

⁶ This is a requirement of DPA Master Plans (301 CMR 23.05(e) 3).

included as allowable uses in the MI-1, MI-2, and MI-3 districts in Table 5.1. The Commercial Supporting Uses generally special permit uses subject to standards in Section 2.2.4 (as revised) and a new Section 3.6 of the Zoning Ordinance.

Most significantly, the Plan increases the amount of Supporting Use allowed in the Gloucester DPA. For all areas, the Plan establishes no upper limit on the amount of Supporting Industrial Use on a property. In the Harbor Cove (MI-1) and East Gloucester (MI-3) sections of the DPA, the Plan establishes that property owners are eligible to develop up to 50 percent of their land area for Supporting Commercial Uses, and up to 65 percent if there is an existing or proposed use on the property that is critical to Gloucester's functioning as a full service, regional hub port⁷. This is a significant increase over the current Chapter 91 regulatory limit for Supporting Commercial Uses of 25 percent of the filled tideland and pier area on each project site. Further, the Plan allows greater flexibility in siting Supporting Commercial Uses on the filled tidelands and upland portions of a property.

5-3 ECONOMIC SUPPORT FROM DPA SUPPORTING USES

Supporting DPA use projects seeking approval must provide economic and/or operational support to water-dependent industrial uses on-site. If the property has an existing or proposed hub port use, economic support from the Supporting Use to the hub port use will be presumed. For other water-dependent industrial uses, the level and nature of economic support must be specified. If no water-dependent industrial exists on or is proposed for the site, a commensurate investment in on-site waterfront infrastructure (piers, wharfs, dredging) to improve the site's capacity for water-dependent industrial use will be required. If, and only if, none of the above can be achieved adequately, a contribution to the Gloucester Port Maintenance and Improvement Fund will be required as mitigation.

A methodology will be developed for quantifying the amount of economic support expected from supporting uses.

5-4 RECOMMENDATIONS

Many of the goals of this Harbor Plan/DPA Master Plan are achieved through the Gloucester Zoning Ordinance. This section presents proposed new and amended zoning provisions designed to implement the objectives of this plan and align the zoning regulations with state waterways regulations to increase consistency among regulatory requirements, improve predictability of decision making, and facilitate the review processes.

- 1. Amend the City of Gloucester Zoning Ordinance** and map to create three separate zoning districts from the current Marine Industrial (MI) district (Figure 5-1, Current Zoning; Figure 5-2, Proposed Zoning; an Table 5.1, Changes to the Use Regulations Schedule):

MI-1 Harbor Cove
MI-2 Industrial Port
MI-3 East Gloucester

⁷ "Hub port" uses include facilities or space for commercial vessel maintenance and repair, commercial gear sales, vessel fueling, ice manufacturing, fish offloading/packing, fish buying/brokering, fish processing, working on gear, vessel haul out, and fishing vessel berthing.

As described in Section 2-5, the area covered by the DPA encompasses several sub-areas distinguishable in terms of existing land use and character, infrastructure, and suitability for marine industrial uses. Consequently, for purposes of analysis, the Inner Harbor waterfront was divided into three planning areas identified as: Harbor Cove, the Industrial Port, and East Gloucester, illustrated in Figure 2-3. These three planning areas are proposed to become three separate Marine Industrial zoning districts which are treated differently under proposed revisions to the Zoning Ordinance and the application of Chapter 91 waterways regulations. The purpose and objectives to be achieved in each district are:

MI-1 Harbor Cove

Existing and new water-dependent industrial uses occupy the waterfront portion of all properties. Existing water-dependent industrial uses are protected by City and state regulations preventing displacement by non-water-dependent uses. Redevelopment with Supporting Commercial Uses of up to 50 percent (65 percent of properties with hub port uses) of the ground level land area (i.e., excluding structures over water) in addition to upper floors is possible (Figure 5-3).

Properties around Harbor Cove are encouraged to redevelop with Supporting Commercial Uses to:

- € Provide financial and operational support to the water-dependent industrial activities on the waterfront;
- € Strengthen the link between the downtown and the waterfront; and,
- € Attract more pedestrian traffic.

MI-2 Industrial Port

Water-dependent industry is the priority use; it is the dominant use currently and should remain so. The Plan's recommendations encourage water-dependent industrial uses and general industrial uses, and accommodate accessory uses, but limit Supporting Commercial Uses to 25 percent of the ground level land area of the lot (Figure 5-3).

MI-3 East Gloucester

The East Gloucester waterfront is a mix of water-dependent and nonwater-dependent industrial and commercial uses, and residences. A number of properties along East Main Street do not have water frontage. Much of the existing development in this area, such as the residential and recreational boating facilities, pre-exists the current MI district regulations, and can continue to exist as legally nonconforming uses, with limited opportunity to expand. Because of the existing mixed use nature of the area, the unsuitability of East Main Street to accommodate an increase in large truck traffic, and the proximity of residential neighborhoods, allow Supporting Commercial Uses to occupy up to 50 percent of the ground level area (up to 65 percent of properties with hub port uses) of waterfront properties (excluding water and piers). The immediate waterfront is reserved for existing and new water-dependent industrial uses. Existing water-dependent industrial uses are protected by City and state regulations preventing displacement by non-water-dependent uses (Figure 5-3).

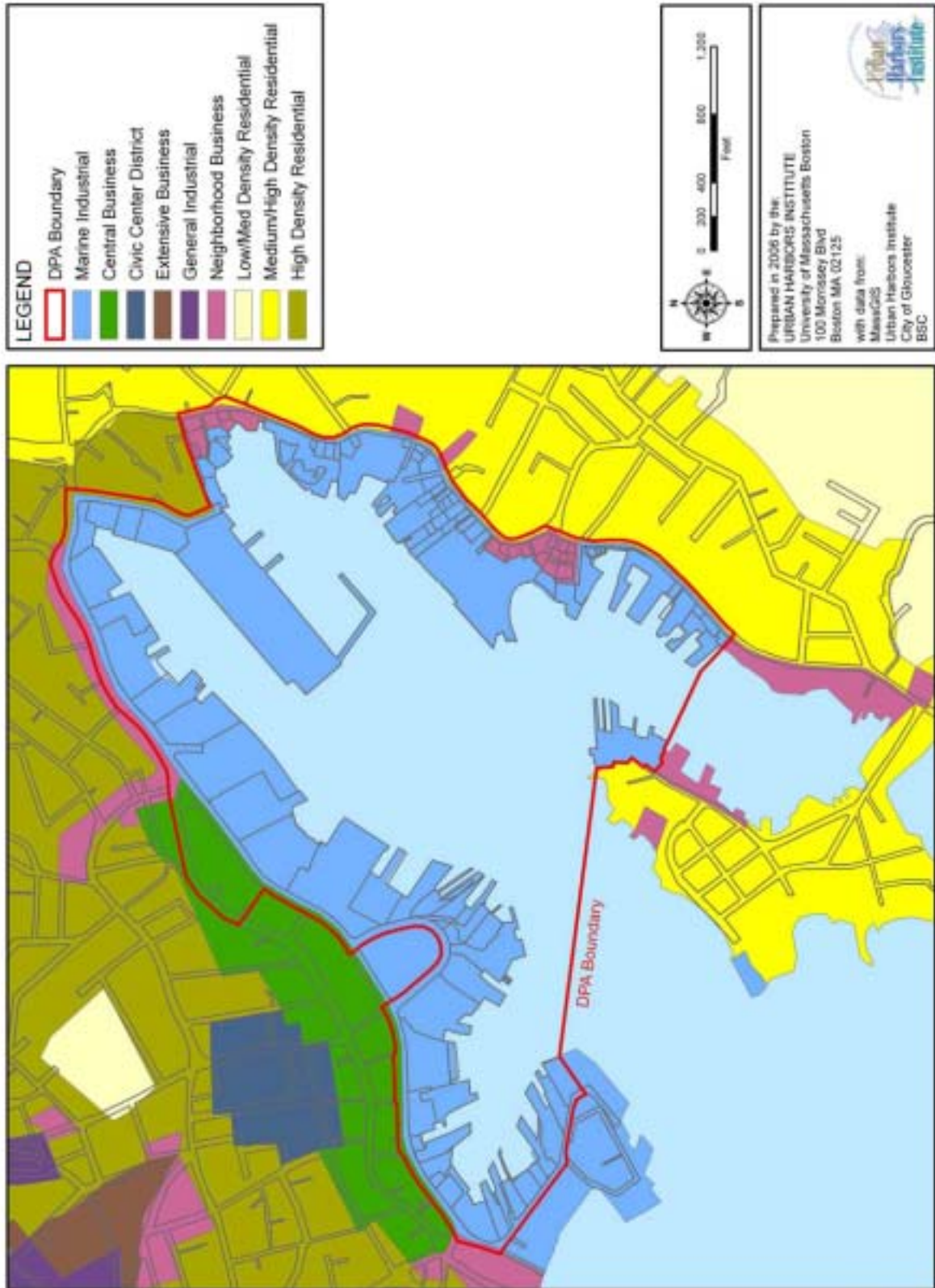


Figure 5-1. Gloucester Harbor Zoning

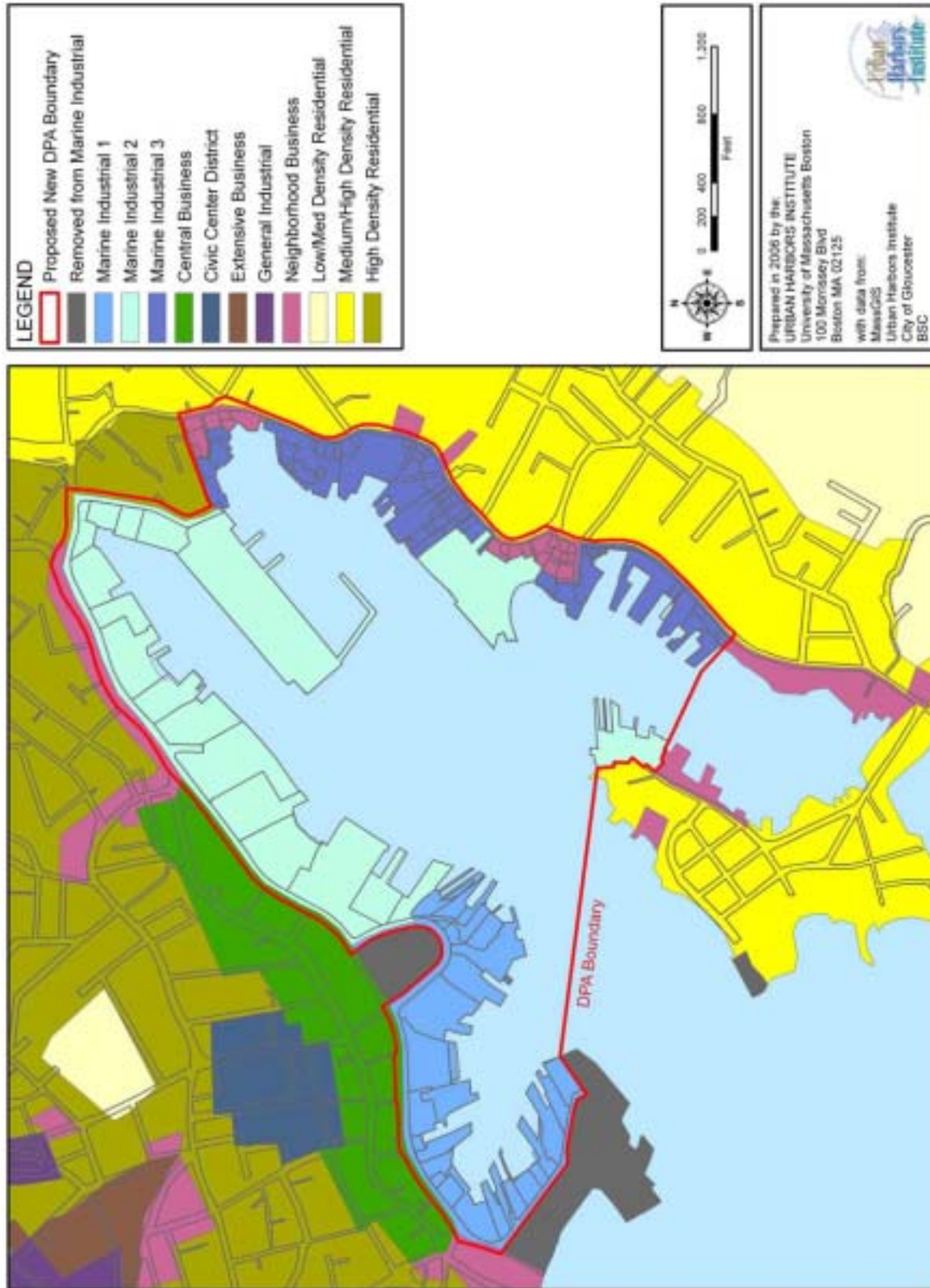


Figure 5-2. Proposed Changes to Gloucester Harbor Zoning

2. **Amend Table 2.3 Use Regulation Schedule of the Gloucester Zoning Ordinance** to
(1) create a list of allowable and prohibited uses for each of the three new MI districts;
(2) make most water-dependent industrial, general industrial, and related uses as-of-right and most commercial uses by special permit. This expedites and simplifies the permitting of water-dependent industrial development and provides a mechanism for applying to proposed commercial uses the (amended) water-dependent use special permit standards of Section 2.2.4 and the supporting DPA use conditions of the (new) Section 3.6. See related recommendations 3 and 4 below. If a greater degree of review for water-dependent industrial and general industrial uses is desired, site plan review could be required or a set performance standards added to the Zoning Ordinance for industrial development .
3. **Add a new Section 3.6 to the Gloucester Zoning Ordinance** with locational and dimensional standards applicable to commercial and similar uses in MI-1, MI-2, and MI-3 districts.

3.6 Supporting commercial uses in the MI districts

3.6.1 Conditions for approval

1. In the MI-1 and MI-3 districts, such uses cannot in the aggregate occupy more than 50 percent of the ground level area of filled tidelands and uplands on the property except that on properties with an existing or proposed hub port use, such uses can occupy up to 65 percent.
2. An area of open space must be maintained on the property equal to the area of nonwater-dependent commercial supporting use on the ground floor of buildings.
3. Cannot be located on pile supported piers.
4. Within the water dependent use zone, cannot be located in a *new* building and only on upper floors of existing buildings.
5. If facility of private tenancy, cannot be within 100 feet of shoreline.
6. Must provide water-dependent industrial use on the property with direct economic and/or operational support.
 - a) If proposed on a property with a functioning hub port use, required level of support is assumed to be provided.
 - b) If proposed on a property with no existing or proposed water-dependent industrial use, required level of financial support is to be invested in on-site waterfront infrastructure improvements. If no investment on-site is possible, funds to be contributed to the Gloucester Port Maintenance and Improvement Fund.

Adherence to these standards makes these uses eligible for licensing by DEP as Supporting Commercial Uses in the DPA.

Table 5.1: Proposed Use Regulation Schedule for the new MI-1, MI-2 and MI-3 districts. Columns 1, 2 and 3 are the current Use Regulations Schedule for the MI district in Section 2.3 of the Gloucester Zoning Ordinance. Columns 4, 5, and 6 are the proposed Use Regulations Schedule for the new MI-1, MI-2 and MI-3 districts. In the latter three columns, black type represents an extension of a current MI use to the new districts(s), **red** a change from the existing, and **blue** are new uses not currently in Section 2.3.

Section	List of uses	Current MI	Proposed MI-1 Harbor Cove	Proposed MI-2 Industrial Port	Proposed MI-3 East Gloucester
Residential Uses					
2.3.1(1)	One-family detached	N	N	N	N
2.3.1(2)	Convert one to two family dwelling	N	N	N	N
2.3.1(3)	New 2-family dwelling	N	N	N	N
2.3.1(4)	Multi-family apartments Up to six units Seven or more	N N	N N	N N	N N
2.3.1(5)	Cluster development	N	N	N	N
2.3.1(6)	Boarding, lodging or guest house	SPS	SPS ^{1, 4}	N	SPS ^{1, 4}
2.3.1(7)	Hotel, motel, motor inn	N	N	N	N
2.3.1(8)	Mobile Home Park	N	N	N	N
2.3.1(9)	Campground	N	N	N	N
2.3.1(10)	Mobile home not in park or campground	N	N	N	N
2.3.1(11)	Camping or tenting	N	N	N	N
2.3.1(11A)	Assisted Living Facilities	N	N	N	N
Community Service Uses					
2.3.2(12)	Public, religious, other nonprofit schools, building or use	Y	CC ⁴	CC ⁴	CC ⁴
2.3.2.(13)	Municipal use not elsewhere more specifically covered	Y	CC ⁴	CC ⁴	CC ⁴
2.3.2.(14)	Public utility facility a. Servicing exclusively the immediate neighborhood b. Servicing a broader area	CCS Y	CCS CCS	CCS Y	CCS CCS
2.3.2.(15)	Nursing Home, hospital	N	N	N	N
2.3.2.(16)	Cemetery	N	N	N	N
2.3.2(17)	Club or lodge, unless chiefly carried on as a business	CC	N	N	N
2.3.2(18)	Animal hospital, dog kennel	N	N	N	N
2.3.2(19)	Nursery school, day care centers ^a	Y	CC ⁴	CC ⁴	CC ⁴
2.3.2(20)	Commercial Trade school, industrial training center	Y	Y ⁴	Y ⁴	Y ⁴

Section	List of uses	Current MI	Proposed MI-1 Harbor Cove	Proposed MI-2 Industrial Port	Proposed MI-3 East Gloucester
2.3.2(21)	Philanthropic institutions	CCS	CCS ⁴	CCS ⁴	CCS ⁴
2.3.2(22)	Airport, heliport	CCS	N	N	N
2.3.2(23)	Agriculture, horticulture	N	N	N	N
2.3.2(24)	Wildlife area, reservation	N	N	N	N
2.3.2(25)	Riding school, stable	N	N	N	N
2.3.2(26)	Golf driving range, mini golf	N	N	N	N
2.3.2(27)	Golf course	N	N	N	N
2.3.2(28)	Commercial picnic/outing area	N	N	N	N
2.3.3(29)	Boat launching, docking or docking structure primarily for commercial fishing vessels	SP	Y	Y	Y
2.3.3(30)	Supervised camping	N	N	N	N
2.3.3(31)	Outdoor recreation by government Other outdoor recreation	Y Y	Y CC ⁴	Y N	Y CC ⁴
2.3.3(32)	Seasonal sale of Christmas trees	Y	Y	Y	Y
Business Uses					
2.3.4(34)	Conversion of dwelling for up to four offices	N	N	N	N
2.3.4(35)	Banks, ATM	CC	CC ⁴	N	CC ⁴
2.3.4(36)	Offices < 6,000 sf of floor area	Y	SP ^{2, 4}	SP ^{2, 4}	SP ^{2, 4}
2.3.4(37)	Other office	Y	SP ^{2, 4}	SP ^{2, 4}	SP ^{2, 4}
2.3.4(38)	Funeral Home	N	N	N	N
2.3.4(39)	Restaurant	CCS	CCS ⁴	CCS ⁴	CCS ⁴
2.3.4(40)	Motor vehicle sales, rental	CCS	N	N	N
2.3.4(41)	Marine related sales, rental, limited primarily in MI districts to commercial vessels	Y	Y	Y	Y
2.3.4(41A)	Protein Recovery Plant	CCS	CCS	CCS	N
2.3.4(42)	Motor vehicle service, storage, repair	CC	N	N	N
2.3.4(43)	Marine-related service, storage, repair	CC	Y	Y	Y
	Boat launching, docking or docking structures for commercial vessels		Y	Y	Y
2.3.4(44)	Building tradesman, contractor, no outside storage	CC	Y	Y	Y
2.3.4(45)	Fuel, ice establishment	CC	CC ³	CC ³	CC

Section	List of uses	Current MI	Proposed MI-1 Harbor Cove	Proposed MI-2 Industrial Port	Proposed MI-3 East Gloucester
2.3.4(46)	Feed, building materials establish	Y	SP ⁴	N	N
2.3.4(47)	Laundry, dry cleaning <4k s.f.	N	N	N	N
2.3.4(48)	Stone mason's yard	CC	CC ³	N	CC
2.3.4(49)	Shopping center	CCS	N	N	N
2.3.4(50)	Retail, consumer service, other non-industrial business use	Y	CC ⁴	N	CC ⁴
2.3.4(51)	Automatic amusement devices	N	N	N	N
	Facilities for water transportation passenger loading/unloading		Y	Y	Y
Industrial Uses					
2.3.5(52)	Junk Yard	N	N	N	N
2.3.5(53)	Earth products & stone removal	N	N	N	N
2.3.5(54)	Manufacturing, processing or research	Y	CC ³	Y	CCS
2.3.5(55)	Trailer truck park, freight or transportation terminal facilities	CCS	CCS	CCS ³	N
2.3.5(56)	Processing and cooling	Y	Y	Y	Y
2.3.5(57)	Bulk storage/warehousing	Y	Y	Y	CC ³
2.3.5(58)	Laundry, dry cleaning > 4k s.f.	N	N	N	N
2.3.5(59)	Commercial radio transmission	SP	SP ⁴	SP ⁴	SP ⁴
2.3.5(60)	Contractor's yard	Y	Y	Y	Y
	Commercial fishing and fish processing		Y	Y	Y
Other Principal Uses					
2.3.6(61)	Parking of motor vehicles	CC	CC ⁴	CC ⁴	CC ⁴
2.3.6(62)	Temporary structures and uses	SP	SP	SP	SP
2.3.6(63)	Sale of arts and crafts	Y	CC ⁴	N	Y ⁴
2.3.6(64)	Non-commercial radio trans	SP	SP ⁴	SP ⁴	SP ⁴
Accessory Uses					
2.3.7(65)	Garage parking for permitted uses	Y	CCS ⁴	CCS ⁴	CCS ⁴
2.3.7(66)	Parking for uses in NB (B-2) dist	Y	Y ⁴	Y ⁴	Y ⁴
2.3.7(67)	Parking for agricultural equipment uses on site	Y	N	N	N
2.3.7(68)	Signs	Y	Y	Y	Y
2.3.7(69)	Manufacturing accessory to	Y	Y	Y	Y

Section	List of uses	Current MI	Proposed MI-1 Harbor Cove	Proposed MI-2 Industrial Port	Proposed MI-3 East Gloucester
	retail				
2.3.7(70)	Employee dwelling accessory to industry	Y	Y	Y	Y
2.3.7(71)	Office for one professional in residence	Y	N	N	N
2.3.7(72)	Home occupation	SP	N	N	SP ⁴
2.3.7(73)	Boarders, roomers, lodgers	N	N	N	N
2.3.7(74)	Dining halls, shops, wholly within motel or hotel	N	N	N	N
2.3.7(75)	Automatic amusement device limited to 4 or fewer	N	N	N	N
2.3.7(76)	Recreational use accessory to dwelling for use by guests	N	N	N	N
2.3.7(77)	Wind energy conversion devices	SP	SP ⁴	SP ⁴	SP ⁴
2.3.7(78)	Yard sales	Y	N	N	Y
	Restaurant with water-dependent industrial use		CC ⁴	CC ⁴	CC ⁴
	Boat rack storage at vessel service yards			Y	Y

Key to notations used in the table

Y Permitted use

N An excluded or prohibited use

SP Use which may be authorized under special permit by the Board of Appeals as provided for in Section 1.4.1.

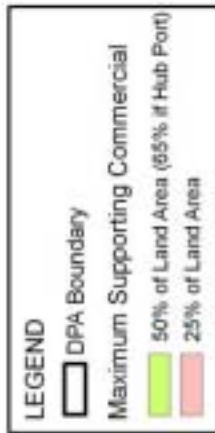
SPS Use which may be authorized under special permit by the Board of Appeals. Application must be accompanied by plans as required in section 1.4.1.2(b), second paragraph.

CC Use which may be authorized under special permit by the City Council as provided for in Section 1.4.2.

CCS Use which may be authorized under special permit by the City Council. Application must be accompanied by plans as required in section 1.4.1.2(b), second paragraph.

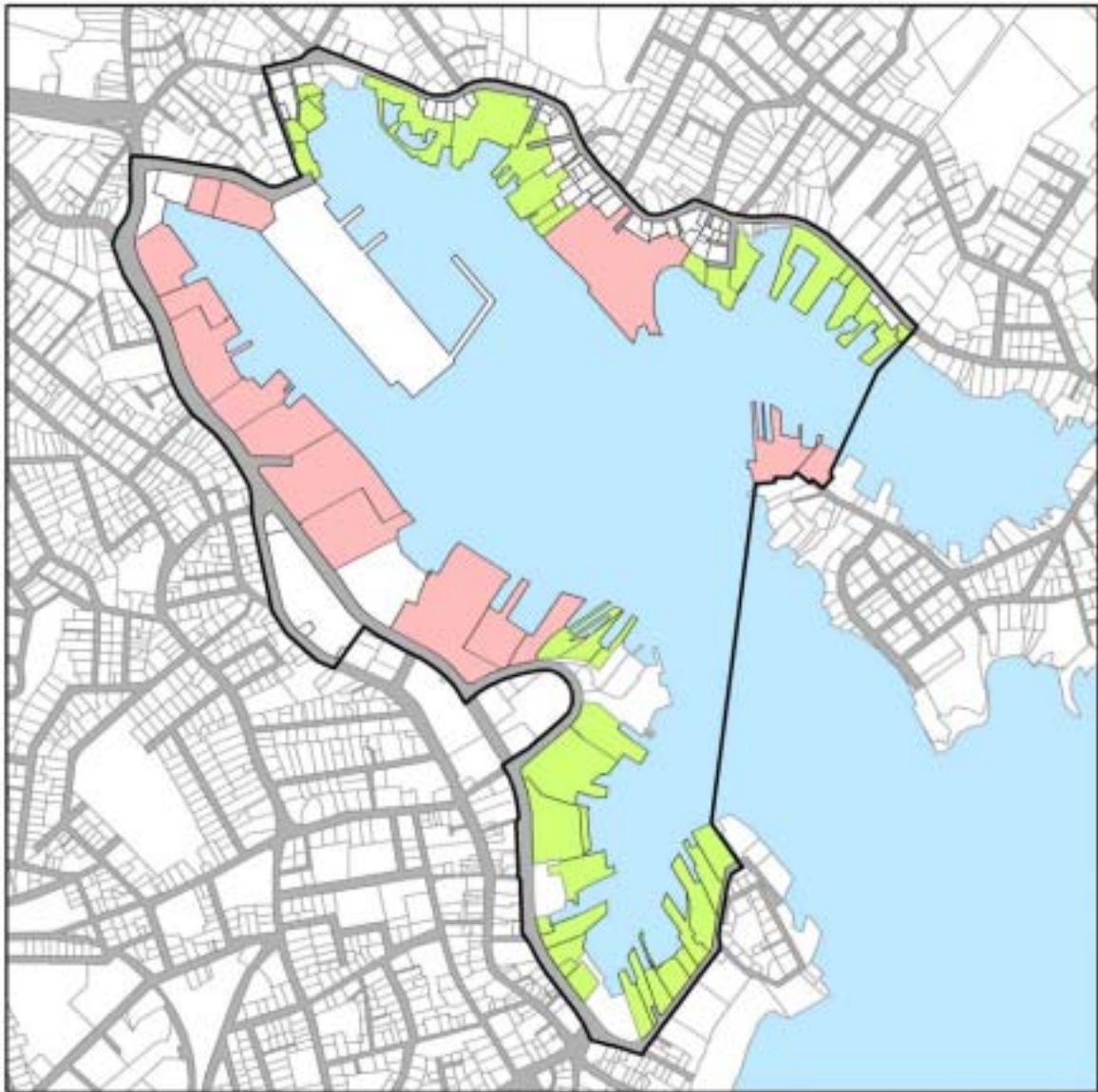
Conditions applicable to certain commercial uses to make them eligible for licensing as supporting DPA uses:

- 1 limited to short-term living quarters for persons engaged in commercial fishing or other marine passenger or cargo business.
2. Not as the predominant use of *new* buildings.
3. Y if water-dependent or marine-related
4. Location and dimensions in accordance with proposed Section 3.6 Conditions for Supporting Commercial Uses in the MI districts.



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5-3. Proposed Changes to Maximum Allowable Supporting Commercial Use

4. **Strengthen the provisions of Section 2.2.4** by establishing the existing “factors” as standards for approval by the special permit granting authority.

Amend Section 2.2.4 of the ordinance which stipulates that, “For all uses requiring a special permit in [the] **any** MI zone, and located within 200 feet of the water's edge, . . . , the special permit granting authority **in approving the use** [shall consider the following factors] **must find that**:

1. [Will] The proposed use will **not** displace (i.e., reduce the capacity or functions of) existing water-[related] **dependent** uses;
2. [Will] The proposed use **will not, by virtue of its location, scale, duration, operation, or other aspects**, pre-empt **or interfere with existing** or future development **of water**-[related]**dependent** uses of **the project site or** surrounding property;
3. (Will the) **The** proposed use [be] **is** [in]compatible with the working waterfront character of the zone
4. [To the extent that] The proposed project will **not** displace existing commercial fishing vessel berthing in Gloucester Harbor, [will] without [the applicant] provid[e]ing equivalent space at a suitable alternative site **not already used by commercial fishing vessels**;
5. The [extent to which the] proposed use will [beneficially] **not adversely** affect the preservation of water-[related] **dependent** uses on surrounding properties.

In exercising its power under this section, the special permit-granting authority may impose reasonable **modifications**, conditions, regulations or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not **result in any of the above adverse impacts or otherwise** adversely affect the primary character of the area as a working waterfront.

5. **Move the note designated with an asterisk in Section 2.3** Use Regulations Schedule to a new Section 2.2.6 and amend it to read “**Water-dependent use zone**: no use of the water's edge and of an area at ground level **for a distance of at least 25 percent of the average depth of the property measured from the present high water mark to the landward lot line of the property, but not less than [20] 25 feet**, [from the back from the water's edge] shall be permitted on property in a MI District unless it requires access to water-borne vessels.”

Change makes this zoning ordinance standard minimally consistent with the water-dependent use zone requirement of the waterways regulations 310 CMR 9.51(c)(3).

6. **Amend Section VI, Definitions to include:**

Hub port use

Industrial use

Commercial use.

7. **Align the MI district boundaries with the DPA boundary** to improve consistency of purpose and regulatory provisions.

The DPA covers all of the waterfront land and water of the Inner Harbor from the end of Commercial Street at Harbor Cove around to the mouth of Smith Cove. The MI district

covers almost the same land area though it also includes more of the Fort neighborhood, the area inside Harbor Loop, and the Paint Factory property. Regulatory consistency and coordination will be enhanced by making DPA boundary and MI district(s) as similar as possible. This would be achieved by removing several limited areas from the MI zoning district as described below. None of these changes will adversely affect the functioning or integrity of the working port (Figure 5-2).

1. Amend the Gloucester Zoning map by removing from the MI zoning district:

- a) the parcel occupied by the former Paint Factory
- b) properties interior to Harbor Loop
- c) properties on Fort Point outside the DPA boundary

The decision about which zoning district these properties should become part of is the City Council's. This Harbor Plan notes only that the district should be one which does not encourage development that might conflict with or be adversely affected by industrial uses or activities in the DPA.

One area of the DPA extends beyond the current MI district. This is an area of 4.354 acres to the northwest of Rogers Street currently occupied by Gorton's headquarters office buildings, a gas station, restaurant, and a retail establishment. This Harbor Plan does not recommend that the City initiate the process for modifying DPA boundaries (301 CMR 25.00) for the purpose of removing this area from the DPA at this time as little of substance will be gained since the majority of the property is occupied by Gorton's headquarters. If, however, the City decides in the future to pursue modifications of the DPA boundary, this area should be considered on the following bases:

The area is within the Central Business (CB) district, whose purpose is "to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, all of which comprise the City's central core." All industrial uses listed in Table 2.3.5 of the Gloucester Zoning Ordinance are prohibited in the CB district. Though a portion of the area (0.94 acres) is filled tidelands, it is, at its closest point, approximately 390 feet from the waterfront and separated from it by Rogers Street, the Gorton's/Americold complex and the Massachusetts Electric property. Rezoning to MI seems impractical as the property does not border coastal or tidal waters, the existing uses are consistent with current zoning and the surrounding development in the CB district.

As described in the regulations, certain areas of the DPA *are not eligible for a review* to determine if the area should remain in an existing DPA.

These include any:

- § area within a DPA on which water-dependent industrial use has occurred within the previous five years unless the use (1) did not take place on a reasonably continuous basis, for a substantial period of time; or (2) has been or will be discontinued voluntarily by the user.
- § land area within a DPA that is entirely bounded by existing DPA lands and/or by any waters.

Boundary reviews are conducted by the Massachusetts Coastal Zone Management Office using criteria in 301 CMR 25.04 which are based on the physical suitability of an area to accommodate water-dependent industrial use.